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DE RUEHGB #4310/01 3250847
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FM AMEMBASSY BAGHDAD
TO RUEHC/SECSTATE WASHDC PRIORITY 8117
INFO RUCNRAQ/IRAQ COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 004310

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E.O. 12958: DECL: 11/20/2016

TAGS: [PREL](#) [PGOV](#) [IZ](#)

SUBJECT: CHARGE AND IRAQI CONSTITUTIONAL COMMITTEE CHAIR
DISCUSS CONSTITUTIONAL REVIEW

Classified By: Deputy Chief of Mission Daniel Speckhard for reasons 1.4
(b) and (d).

¶1. (C) SUMMARY: Newly elected Constitution Review Committee (CRC) Chair Shaykh Humam Hammoudi (Shia Coalition/SCIRI) told Charge Speckhard on November 19 that the CRC will take up political, technical/drafting, and "continuity" issues. Political issues like regional authorities will be decided by political leaders and these decisions need to be made early in the process so that final decisions are not made hastily at the end (as was done in constitution drafting). The CRC will form a committee of Iraqi experts and ask the UN to provide outside experts to consider technical issues. The CRC will also tackle particular articles that are due to become laws (e.g., Federation Council, judiciary, and independent commissions). Hammoudi believes that some regional authority issues can be handled by the Federation Council. While the Shia Coalition was unwilling to accept Sunni Council of Representatives (CoR) member Ayad al-Sammarai as CRC chair (al-Sammarai is a deputy chair) because of the Sunni Tawafuq bloc's actions during the region formation law debate, the committee leadership will work together. Hammoudi said he supports minority participation in the review process, but added that Kurdistan Regional Government (KRG) President Massoud Barzani continues to refuse to add Iraqi Turkmen Front CoR member Saad al-Din Muhammad Amin to the CRC despite his election by fellow Turkmen CoR members. END SUMMARY.

Political, Technical, and "Continuity" Issues

¶2. (C) CRC Chair Hammoudi (Shia Coalition/SCIRI) told the Charge November 19 that that the CRC had agreed in its initial November 15 meeting to work together. He divided the CRC issues into three areas: political, technical/drafting, and "continuity" issues:

-- Political issues (e.g., region authorities, natural resources, wealth distribution): Hammoudi stressed the need to pinpoint each side's concerns and demands on certain articles. He added that decisions on these issues will be made by the political leadership. He stated that CRC wants to avoid what happened during the original constitution drafting: complications when the final version was presented late in a hasty manner. The CRC has asked already the Sunni Tawafuq bloc to present its observations and requests, in light of the fact that Sunnis did not participate early enough in the original constitution drafting process. Tawafuq has promised to deliver its observations to the committee November 20.

-- Technical/drafting issues: The CRC will form a committee of Iraqi experts and ask the UN to provide outside experts, particularly from Egypt (because of its expertise in law) and Lebanon (because of its experience with democracy and pluralism) to look at these issues.

-- "Continuity" issues: Hammoudi stated that the CRC will also tackle particular articles that are due to become laws - specifically, the Federation Council (Article 65), judiciary authority (various Chapter 3 articles), and independent commissions (various Chapter 4 articles). Hammoudi has requested UN experts and studies concerning the Federation Council. Some countries have similar experience, particularly those countries with diversity (ethnic or religious). He said the Federation Council will be a good place for minorities to express their fears and defend their rights. He said the CRC chairs will announce publicly that the Committee will gather observations and remarks within one month to form a sub-committee with preparing legislation as its purpose.

Regional versus Central Government Authorities

13. (C) The Charge asked Hammoudi about the perception that regional authorities are so strong that they can negate central government decisions. Hammoudi mentioned two areas: regional authorities and natural resources. He cited the constitutional article that forbids the federal Army from entering a region without the agreement of the region (NOTE: There is no such reference in the Iraqi constitution. We believe Hammoudi is referencing Article 104 (Twelfth) of the draft KRG Constitution which states that the KRG President has the power to "allow the entry of federal armed forces or any other military units to the region when needed with the approval of the Parliament of Iraqi Kurdistan provided that their tasks and the place and duration of their presence shall be specified." END NOTE). According to Hammoudi, these

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types of decisions should be left to the Federation Council. As for natural resources, he said there is a misinterpretation of the constitution. Oil is the possession of all Iraqis, and resources will be distributed according to number of people. While acknowledging the issue of exploration and exploitation of existing and new oilfields, he said, "The oil well can be in your hands, but the material is not." He added that there are large differences between the Kurdish Alliance and Tawafuq on this issue. He said the gap will need to be bridged, and the USG may need to assist.

Why Ayad al-Sammarai Could Not Be CRC Chair

14. (C) Hammoudi told the Charge that there was initially no objection within the Shia Coalition to the idea of Sunni CoR member Ayad al-Sammarai chairing the CRC. It is in the Shia Coalition's interest that the Sunnis are reassured about the CRC's work. However, in Hammoudi's view, after the Shia Coalition gave Tawafuq concessions in the region formation law, Tawafuq withdrew from the final vote. Hammoudi said this action made the Shia Coalition review the issue of giving the CRC chair to Tawafuq, particularly with the possibility that something as sacred as the constitution could be dealt with haphazardly.

15. (C) Hammoudi admitted that he had told al-Sammarai before the committee election that "his performance is not something we are comfortable with." At the same time, Hammoudi stressed that decisions will be made communally and that the chair and two deputies (al-Sammarai and Kurdish CoR bloc leader Fouad Masoum), not just the chair, will represent the committee. The committee leadership has decided to only go to the media together. They will only mention items they agree on, and, if there is disagreement, they will say the issue is under review. Hammoudi stated that he wants the CRC to bring unity and Iraqis closer together.

Minority Representation Important: Any Member Can Attend CRC Meetings

¶16. (C) On the issue of minorities, Hammoudi said their presence is useful for the constitutional process. Any CoR member can attend the CRC meetings as an observer. Since decisions will be made by consensus and not by voting, observer attendance should not be an issue. Hammoudi said there was approval to add a Shabak (Dr. Hanin al-Qeddo - Shia Coalition/Independent) and a Kurdistan Islamic Union (Sami al-Atroschi) representative to the CRC. He mentioned that the Sabeans have no CoR representative, but they will be allowed to participate. As for the Turkmen, Hammoudi told the Charge that it is not a problem for him since anyone can attend. However, KRG President Massoud Barzani has refused the presence of any Turkmen who is allied with Turkey (i.e., Iraqi Turkmen Front CoR member Saad al-Din Muhammad Amin). Despite the fact that the political parties agreed that the minorities could select their representatives and despite the fact that the Turkmen CoR members elected Muhammad Amin, President Barzani still refuses. Hammoudi said the CRC will invite him to attend the committee meetings as an observer until the issue is resolved.

Comment

¶17. (C) Shaykh Hammoudi said all of the right things during this meeting, particularly regarding the inclusion of all sides in the constitutional review process. When offered a meeting to discuss USG assistance to the committee, Hammoudi replied that such a meeting must include both deputies as well. At the same time, Hammoudi did not reveal where the Shia Coalition stands on constitutional amendments, mentioning only the need to see what Tawafuq wants. He made a point at the beginning of the meeting to remind the Charge that the committee is a constitutional review committee, not a constitutional amendment committee.

KHALILZAD